

REMARKS

Attached is a copy of the August 16, 2004 Decision of the United States Court of Appeals for the Federal Circuit concerning *In re Wilhelm Elsner* (Application No. 09/664,247) and *In re Keith W. Zary* (Application No. 09/267,559).

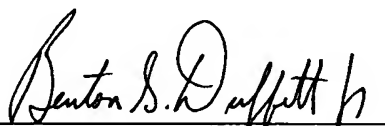
The continued rejection of the present Application under 35 U.S.C. § 102(b) for the reason stated in the June 3, 2004 Official Action would be inappropriate. A rejection of this nature was presented in the above-identified Applications of *Wilhelm Elsner* and *Keith W. Zary*. The Court of Appeals has held that the rejection "is not correct". It would serve no useful purpose for Applicant to be forced to appeal the same issue. Accordingly, the prompt withdrawal of the rejection is in order and respectfully is requested.

Respectfully submitted,

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